III. REMARKS

Claims 1-56 are pending in this application. By this amendment, claims 41, 54 and 56 have been amended. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Entry of this Amendment is proper under 37 C.F.R. 1.116(b) because the Amendment: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; and (c) places the application in better form for appeal. Accordingly, Applicants respectfully request entry of this Amendment.

In the Office Action, claims 1-15, 19-35 and 39-56 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal *et al.* (U.S. Patent No. 6,606,661), hereafter "Agrawal" in view of Bondarenko *et al.* (U.S. Patent No. 6,389,028), hereafter "Bondarenko." Claims 16-18 and 36-38 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal in view of Bondarenko and further in view of Slotznick (U.S. Patent No. 6,011,537), hereafter "Slotznick."

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Applicants respectfully submit that the Agrawal, Bondarenko and Slotznick references, taken alone or in combination, fail to meet each of the three basic criteria required to establish a *prima facie* case of obviousness. As such, the rejection under 35 U.S.C. §103(a) is defective.

With regard to the 35 U.S.C. §103(a) rejection over Agrawal in view of Bondarenko, Applicants assert that the cited references do not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 21, and 55 and similarly claimed in claims 41, 54 and 56, Applicants submit that the cited references fail to teach or suggest, *inter alia*, that an enqueued user may remain enqueued while navigating away from the scarce resource. The Office argues that "...since the invention of Agrawal is directed towards Web servers, a client can inherently navigate from a resource and remain in the queue by opening another browser." Office Action, page 3. However, the Office's example overlooks the meaning of the term "navigating away from," as included in the claimed invention. The opening of another browser in the Office's example simply navigates to a new resource *in addition to* the resource for which the client remains in the queue. As such, the client in the Office's example never *navigates away from* the resource, but instead remains connected to the site in one window and navigates to additional sites in a separate window. In contrast, the present invention includes "...an enqueued user may remain enqueued while navigating away from the scarce resource." Claim 1. As such, the user as included in the claimed invention does not have to remain connected to the site in order to remain enqueued as in Agrawal and Bondarenko, but instead may remain enqueued while navigating away from the scarce resource. Thus, the queue as

included in the claimed invention is not taught or suggested by the queues of the cited references. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With respect to dependent claims 20 and 40, Applicants respectfully submit that, contrary to the argument of the Office, Bondarenko fails to teach or suggest determining with the access level of the scarce resource at the desired maximum whether said scarce resource is able to accommodate access by said late requester. The Office admits that Bondarenko does not explicitly teach a "late" request. The Office, however, asserts that "...claims 20 and 40 do not do anything different for the 'late' request...[and thus] Bondarenko teaches the same process for fulfilling the late request." Applicants respectfully disagree, and submit that claims 20 and 40 do provide different determinations for a late request, for example of claim 20, hereafter "late request," than for a request as in claim 1, hereafter "normal request." For example, upon receipt of a normal request, the claimed invention, "...responsive to determining that said access level is at a desired maximum, plac[es] said requester in a queue for access to the scarce resource." Claim 1. As such, the requestor of a regular request of the claimed invention is not granted access if the access level is at a desired maximum, but instead is placed in the queue. In contrast, if the request of the claimed invention is a late request from a requester having missed access when available, it is determined "...with the access level of the scarce resource at the desired maximum whether said scarce resource is able to accommodate access by said late requester." Claim 20. Thus, the late requestor of the claimed invention may be granted access *even when the access level of the scarce resource is at the desired maximum.* Thus, in contrast to the same process of Bondarenko, the claimed invention uses a different determination for late requests than the determination that it uses for regular requests. Thus, the determining step for a late

request as included in the claimed invention is not equivalent to the functions of the queue in Bondarenko. Agrawal does not cure this deficiency. Accordingly, Applicants request withdrawal of this rejection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

IV. CONCLUSION

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

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